

## **II. REMARKS**

### **A. Status of the Claims**

Claim 9 was amended without prejudice. Support for the amendments to claim 9 can be found, e.g., in Example 3 and on page 36, line 12, and page 41, line 10 of the specification as filed.

Claims 11-13 and 19-22 were canceled without prejudice in this amendment. Claims 1-8, 10, 14-18 were previously canceled without prejudice.

New claims 23-29 were added. Support for the “ADCC activity” in new claim 23 and “CDC activity” in new claim 24 can be found throughout the specification, e.g., from page 36, line 2 to page 37, line 3 of the specification as filed. Support for “a recombinant antibody” in new claim 25 and “a humanized antibody” in new claim 26 can be found, e.g., from page 16, line 2 to page 20, line 20 of the specification as filed. Support for new claim 27 can be found, for example, on page 19, lines 3-14. Support for new claims 28 and 29 can be found, for example, on page 20, lines 5-10.

After claim amendments, cancellations and additions herein, claims 9 and 23-29 will be pending in this application.

It is respectfully submitted that no new matter is being introduced in this amendment.

### **B. Advisory Action**

In the Advisory Action mailed on August 14, 2007, the Examiner stated, with regard to amendments to claim 9, that “the cited support did not reveal support for a monoclonal antibody with cytotoxicity against[t] the cell line HepG-2 or Hu-H-7.”

In response, Applicants submit that support for the amendment to claim 9, can be found, e.g., in Example 3 and on page 36, line 12, and page 41, line 10 of the specification as filed.

**C. Declaration of Inventor Iwao Ohizumi Under 37 C.F.R. 1.132**

In the Office Action mailed on March 9, 2007, the Examiner requested clarification on the inventorship of the U.S. Patent Publication No. 2004/0236080. The Examiner stated “Declarant Ohizumi states that he, and not the declared inventors of US patent application 10/481,524, is the inventor of the subject matter claimed in the Application.” The Examiner further stated that “[i]t appears, given that each inventor that signs the declaration is required to have intended the claimed subject matter, that inventor Ohizumi is alerting the office to a fraudulent patent application.”

In response, Applicants respectfully note that it is stated in the submitted declaration that declarant Ohizumi “contributed to the disclosure of that application [USSN 10/481,524], although *not to the subject matter that was ultimately included in the claims* of that patent application.” See point 4 of the declaration (emphasis added).

Accordingly, Applicants submit that declarant Ohizumi does not allege in the declaration that the U.S. Patent Application Serial No. 10/481,524 has incorrect inventorship.

**D. Claim Rejections- 35 U.S.C. 112**

In the Office Action mailed on March 9, 2007, claim 12 was rejected under 35 U.S.C. § 112, second paragraph, for containing the term “chimera antibody.” In response, Applicants submit that claim 12 has been canceled without prejudice. Applicants further submit that none of the pending claims recite the term “chimera antibody.” Accordingly, withdrawal of the rejection is respectfully requested.

In the Office Action mailed on March 9, 2007, claim 13 was rejected under 35 U.S.C. § 112, first paragraph. In response, Applicants submit that claim 13 has been canceled without prejudice. Accordingly, withdrawal of the rejection is respectfully requested.

In the Office Action mailed on March 9, 2007, claims 21 and 22 were rejected under 35 U.S.C. § 112, first paragraph, for depending on rejected claim 13. In response, Applicants

respectfully submit that claims 13, 21 and 22 have been canceled without prejudice. Accordingly, withdrawal of the rejection is respectfully requested.

**C. Rejection under 35 U.S.C. 102**

In the Office Action mailed on March 9, 2007, claims 9 and 19 were rejected under 35 U.S.C. 102(b) as anticipated by Huber (PhD dissertation, Washington University). It was also indicated in the Office Action that then pending claim 11 “would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.”

In response, Applicants submit that claim 19 has been canceled without prejudice, and that claim 9 is the only independent claim in the pending claim set. Applicants also submit that amended claim 9 includes, inter alia, all of the limitations of claim 11, which has been canceled.

Amended claim 9 recites:

An isolated monoclonal antibody against a peptide consisting of amino acid residues 375-580 of GPC 3 as set forth in SEQ ID NO: 4, wherein the antibody has a cytotoxic activity against the cell line, HepG2 or HuH-7.

Applicants further submit that the Huber reference does not teach an isolated monoclonal antibody as recited in amended claim 9. Accordingly, Applicants request withdrawal of the rejection.

In the Office Action mailed on March 9, 2007, claims 9, 13, 19, 21, and 22 were rejected under 35 U.S.C. § 102(e) as anticipated by Aburatani et al. (U.S. Patent Application No. 10/481,524, Publication No. 2004/0236080).

In response, Applicants submit that claims 13, 19, 21, and 22 have been canceled without prejudice, and that claim 9 has been amended without prejudice to include, inter alia, the limitations of claim 11. Applicants respectfully note that claim 11 was not included in the present rejection.

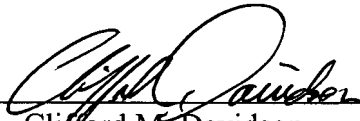
Applicants believe that amendments to claim 9 overcome the rejection over the Aburatani publication.

**Conclusion**

Reconsideration of the present application, as amended, is respectfully requested. If the Examiner has any questions or concerns regarding this response and amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By:   
Clifford M. Davidson  
Reg. No. 32,728

DAVIDSON, DAVIDSON & KAPPEL, LLC  
485 Seventh Avenue, 14<sup>th</sup> Floor  
New York, NY 10018  
(212) 736-1940